



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 26, 1998

Ms. Mary Keller
Senior Associate Commissioner
Texas Department of Insurance
Legal and Compliance
MC 110-1A
P.O. Box 149104
Austin, Texas 78714-9104

OR98-0541

Dear Ms. Keller:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 113008.

The Texas Department of Insurance (the "department") received a request for five categories of information concerning five named insurance companies. You state that some of the requested information will be provided to the requestor. You claim, however, that a department examination report and portions of five letters concerning National Benefit Life Insurance Company are excepted from disclosure under section 552.101 and 552.112 of the Government Code. You also indicate that some of the requested information may be confidential proprietary information of the insurance company. We have considered the exceptions you claim and have reviewed the documents at issue.

You first claim that the document entitled "Market Conduct Examination Report" dated December 8, 1989, is excepted from disclosure under section 9, article 1.15 of the Insurance Code in conjunction with section 552.101 of the Government Code. Section 552.101 of the Government Code excepts from disclosure information considered to be confidential by law, including statutory law. Section 9, article 1.15 makes confidential the examination reports and related work papers obtained during the course of an examination of a carrier. Ins. Code art. 1.15, § 9, Open Records Decision No. 640 (1996). We agree that the department must withhold from disclosure the marked examination report pursuant to section 9 of article 1.15.

You next claim that section 552.112 of the Government Code excepts from disclosure portions of five letters sent to the department from the insurance company. You have

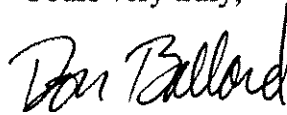
marked the portions that you claim are responsive to the request. Section 552.112 excepts from public disclosure

information contained in or relating to examination, operating, or condition reports prepared by or for an agency responsible for the regulation or supervision of financial institutions or securities, or both.

Insurance companies are included within the term "financial institutions" for purposes of section 552.112(a). Open Records Decision Nos. 392 (1983) at 3, 158 (1977) at 5-6. You explain that the letters were sent to the department in response to an examination report. The letters contain financial and operating information concerning the company. We find, therefore, that the information you have marked may be withheld under section 552.112 of the Government Code.¹

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Don Ballard
Assistant Attorney General
Open Records Division

JDB/ch

Ref: ID# 113088

Enclosures: Submitted documents

cc: Ms. Regina L. LaPolla
Milberg, Weiss, Bershad, Hynes & Lerach. L.L.P.
One Pennsylvania Plaza
New York, New York 10119-0165
(w/o enclosures)

¹Because we are able to make a determination under sections 552.101 and 552.112, we do not address whether the information must be withheld as confidential proprietary information.

National Benefit Life Insurance Company
3900 South Freeway
Fort Worth, Texas 76110
(w/o enclosures)